S.B. Civil Writ Petition NO.5579/2004

Rajwant Singh Vs. State of Rajasthan & Ors.

Date of Order : 13-12-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. H.S. Sandhu, for the petitioners.
Mr. L.R. Upadhyay, for the respondents.

Heard learned counsel for the petitioner.

The grievance of the petitioner is that according to petitioner, the respondents has changed the boundaries of the Ward which has already been fixed in accordance with law and thereby the respondents have committed serious illegality in preparing the voter list. Learned counsel for the petitioner pointed out that the petitioner placed on record the documents showing that the petitioners' name were entered in the earlier voter list Annexure-2 in particular Ward but by amending the voter list, the petitioners' name have been shifted to other Wards.

Learned counsel for the petitioner further submits that respondent prepared a map Annexure-4 and gave certain marks indicating the boundaries of the Wards which indicates that the ward's boundaries have been changed.

Learned counsel for the respondents submitted that

the voter list was prepared and objections were invited against the voter list by fixing a date 16.12.2004, copies of the notices are placed on record alongwith the reply as Annexure R 1/4 to R 4/4. No objection was submitted by the petitioners and ultimately the final voter list was published on 30.10.2004. According to learned counsel for the petitioner, neither there was any objection of the petitioners for preparing the voter list nor they have preferred any appeal after final publication of the voter list as provided under Rule 21 of the Rajasthan Panchayati Raj (Election Rules), 1994. According to learned counsel for the respondents, the petitioners had an effective alternative remedy available to them and they failed to avail it, therefore, the writ petition deserves to be dismissed.

It is also submitted that petitioners have raised disputed questions of fact in the writ petition and they cannot be gone into as no detailed factual inquiry can be conducted while exercising jurisdiction under Article 226 of the Constitution of India. It is also submitted that the petitioners have not changed the Ward.

I considered the submissions of learned counsel for the parties.

It appears that some of the voters' names have

been changed from one Ward to another Ward in the final voter list published on 31.10.2004 which is being treated by the petitioners as change in the boundaries of the wards itself. Be that as it may. The petitioners should have challenged the voter list by filing the appeal and no factual inquiry can be held in writ jurisdiction to decide the location of the petitioners' houses and the actual residents.

In view of the above, there is no merit in the writ petition and the same is hereby dismissed. However, it is made clear that in case petitioners wants to avail the remedy of appeal, they may avail the same but only if the remedy is available.

[PRAKASH TATIA],J.

Praveen